GOVERNMENT OF INDIA
HOME AFFAIRS
LOK SABHA

UNSTARRED QUESTION NO:555
ANSWERED ON:24.02.2009
SC GUIDELINES ON ARRESTS
Lagadapati Shri Rajagopal

Will the Minister of HOME AFFAIRS be pleased to state:

(a) whether the Supreme Court has issued any guidelines on arrests;

(b) if so, the details thereof;

(c) whether various State Police have requested for change in the guidelines; and

(d) if so, the reasons therefor and reaction of the Government thereto?

Answer

MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS(SHRIMATI RADHIKA V. SELVI)

(a) to (d): A Statement is attached.

STATEMENT IN REPLY TO LOK SABHA UNSTARRED QUESTION NO. 555 FOR 24.02.2009 REGARDING SC GUIDELINES ON ARRESTS.

(a): The Supreme Court in the case of D.K. Basu Vs. State of West Bengal (Writ Petition Criminal No. 539 of 1986) issued guidelines to be followed in the case arrest/detention.

(b): The Supreme Court's guidelines regarding arrest are as follows:

(i) The police personnel carrying out the arrest and handling the interrogation of the arrestee should bear accurate, visible and clear identification and name tags with their designations.The particulars of all such police personnel who handle interrogation of the arrestee must be recorded in a register.

(ii) The police officer carrying out the arrest of the arrestee shall prepare a memo of arrest at the time of arrest and such memo, shall be attested by at least one witness, who may be either a member of the family of the arrestee or a respectable person of the locality from where the arrest is made.It shall also be counter signed by the arrestee and shall contain the time and date of arrest.

(iii) A person who has been arrested or detained and is being held in custody in a police station or interrogation center or other lock-up, shall be entitled to have one friend or relative or other person known to him or having interest in his welfare being informed, as soon as practicable, that he has been arrested and is being detained at the particular place, unless the attesting witness of the memo of arrest is himself such a friend or a relative of the arrestee.

(iv) The time, place of arrest and venue of custody of an arrestee must be notified by the police where the next friend or relative of the arrestee lives outside the district or town through the Legal Aid Organization in the District and the police station of the areas concerned telegraphically within a period of 8 to 12 hours after the arrest.

(v) The person arrested must be made aware of this right to have someone informed of his arrest or detention as soon as he is put under arrest or is detained.

(vi) An entry must be made in the diary at the place of detention regarding the arrest of the person which shall also disclose the name of the next friend of the person who has been informed of the arrest and the names and particulars of the police officials in whose custody the arrestees.

(vii) The arrestee should, where he so requests, be also examined at the time of his arrest and major and minor injuries, if any present on his/her body, must be recorded at that time.The "Inspection Memo" must be signed both by the arrestee and the police officer affecting the arrest and its copy provided to the arrestee.

(viii) The arrestee should be subjected to medical examination by a trained doctor every 48 hours of his detention in custody by a doctor on the panel of approved doctors appointed by Director, Health Services of the concerned State or Union Territory.Director,Health Services should prepare such a panel for all Tehsils and Districts as well.

(ix) Copies of all the documents including the memo of arrest, referred to above should be sent to the illaqa magistrate for his record.

(x) The arrestee may be permitted to meet his lawyer during interrogation,though not throughout the interrogation.

(xi) A police control room should be provided at all districts and state headquarters where information regarding the arrest and the place of custody of the arrestee shall be communicated by the officer causing the arrest,within 12 hours of effecting the arrest and at the police control room it should be displayed on a conspicuous notice board.

(c) & (d): The Commissioner of Police,Delhi has requested to have a re-look at some of the guidelines issued by the Supreme Court on arrest, particularly on their ramification in the event of arrest of terrorists/gangsters/dreaded criminals etc.

The Supreme Court judgment has the force of law unless and until the same is overruled by a larger Bench of the Supreme Court or by an appropriate legislation.